

## **NIH POLICY MANUAL**

### **26101-25-2-16 PERSONAL PROPERTY MANAGEMENT GUIDE: RESOLUTION OF LOSS, DAMAGE, AND/OR DESTRUCTION OF GOVERNMENT PROPERTY**

**Issuing Office: OA/OLAO/DPPS 496-5711**

**Release Date: 5/31/00**

**1. Explanation of Material Transmitted:** This new chapter contains the policy and procedures for the resolution of the Loss, Damage, and/or Destruction (LDD) of NIH government property. Previously, NIH manual 26120-25-2, Personal Property Management Guide (PPMG), contained information regarding the LDD of government property. Eventually, the PPMG will be replaced with separate NIH manuals on NIH personal property management policy and procedure issues.

#### **2. Filing Instructions:**

Remove: None

Insert: 26101-25-2-16 dated 5/31/00

**The on-line version at**

**<http://www3.od.nih.gov/oma/manualchapters/acquisitions/26101-25-2-16> has been updated to reflect these changes.**

#### **PLEASE NOTE:**

For information on the NIH Manual System, please call the Office of Management Assessment on 496-2832 or go to <http://www3.od.nih.gov/oma/manualchapters/>.

For questions on this chapter, contact the Office of Logistics and Acquisition Operations, Division of Personal Property Services on 496-5711.

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AND/OR DESTRUCTION OF GOVERNMENT PROPERTY**

**A. PURPOSE**

This chapter provides the NIH policy and procedures for reporting, reviewing, and reconciling the loss, damage, or destruction (LDD) of Government property. The Boards of Survey (BOS) are convened to determine whether someone's negligence or willful misconduct was the proximate cause of LDD to Government property.

**B. RESPONSIBILITIES RELATED TO LDD OF GOVERNMENT PROPERTY**

- 1. Individual – Accountable User:** The individual accountable user of Government property is responsible for the initial preparation of HHS Form 342, Report of Survey (ROS) in the event of Government property LDD. Use HHS Form 342 to report all LDD of NIH Government property, i.e., accountable property, non-accountable property, etc.. The URL for this form online is <http://forms.cit.nih.gov/adobe/property/HS342.pdf>. As a rule, the user has the most current knowledge of the property's condition, status, and location. The accountable user must completely explain all known facts surrounding the property LDD in block 4 on HHS Form 342, ROS. The accountable user must sign and date the form in block 4.

If theft is suspected, the incident should be immediately reported to the appropriate law enforcement authority. On campus, reports should be submitted to the NIH Police. Off campus, reports should be submitted to the appropriate local authority. Users must attach copies of any relevant police reports to the ROS. Copies of the completed package may be forwarded through the supervisory chain of command, to the responsible division or lab director.

Users should prepare the ROS immediately upon discovery of the loss, damage or destruction.

- 2. Property Custodial Officer (PCO):** The PCO must provide information on the item's official classification, cost, description, etc., needed to complete block 3 on the ROS. Upon completion of the item information, the PCO must place any accountable item or items to be surveyed on the transfer queue to the appropriate surveyed property custodial account. Capital items must be placed on the transfer queue to PPB25. Non-capital items must be placed on the transfer queue to the IC surveyed property account.
- 3. Property Management Representative (PMR):** The PMR shall provide any information regarding internal policies and procedures that may have a bearing on the BOS hearing in block 5 of the ROS. If the PMR has provided information in this block, he/she must sign and date the form, in that block. After completion of the form, the PMR must forward it to the appropriate BOS. ROSs containing capital items must be sent to the Property Administration Branch (PAB) for processing by the NIH BOS. Reports containing only non-capital items must be sent to the responsible IC BOS for processing.

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The PMR will log and track all ROS sent to the Institute/Center (IC) BOS to make sure that the process is completed within 120 working days from the date of the incident (discovery).

The PMR will manage the IC surveyed property account and will accept items into that account after receipt of the ROS.

4. **Property Administration Branch (PAB), DPPS:** The PAB will accept ROS capital items into the NIH surveyed property account (PPB25) upon receipt of a complete ROS Form. The PAB will retain documents on all capital property ROS actions for the period required by applicable record retention policies. The Division of Personal Property Services (DPPS) will review the IC BOS processes for compliance with this issuance and related property management issuances. DPPS will track all ROS actions for capital property to assure completion within 120 days of the incident (discovery).
5. **Property Management Officer (PMO):** The PMO will receive and review annual reports of BOS activity and direct changes to policies or procedures to reduce the risk of LDD of property.
6. **Boards of Survey (BOS):** The Boards of Survey (BOS) and Survey Officers are charged with ensuring that a complete and thorough hearing is conducted on the cause of the loss, damage or destruction (LDD); examining and verifying all evidence presented and developed; documenting findings; making written recommendations for disposition of property and other actions; making determinations as to whether employees have committed simple or gross negligence; arriving at findings regarding financial liability as indicated by results of the hearing; and submitting a signed Report of Survey to the proper Determining Authority.

Each IC shall institute a BOS to review losses of non-capital property and provide recommendations in accordance with this guidance. These BOS shall consist of at least three individuals. ICs may pool resources and establish boards to consider LDD reports from two or more ICs. The Associate Director for Administration will appoint five individuals to an NIH BOS to review instances of loss related to capital property. To avoid potential conflicts of interest, appointees to the BOS should not be individuals with property management duties, e.g., PMRs, PCOs and OLAO personnel. BOS members should be recused from BOS activities when LDD of property is reported by subordinates or direct supervisors.

BOS are also expected to provide a recommendation to the appropriate IC Determining Authority. These recommendations may include: Relieving all individuals involved in the LDD of property of responsibility; Holding individuals financially liable; Recommending that the individuals be subject to appropriate disciplinary action; or Alerting appropriate law enforcement agencies for suspected violations of law.

- a. **Institute Center (IC) Boards of Survey:** IC BOSs are authorized to review instances of LDD of non-capital property, regardless of the cumulative value of the loss.

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- b. **NIH Board of Survey:** The NIH BOS will review instances of LDD of capital property items.

- 7. **Determining Authority:** The Delegation of Authority is found at the following URL: <http://www3.od.nih.gov/oma/manualchapters/delegations/propp/pp02/>. Determining Authorities will review the recommendation of the BOS, will accept them or will return them to the BOS for further review. Determining Authorities will work with personnel, property and supervisory authorities to assure that accepted recommendations are executed.

For individual reports of LDD of non-capital property, with aggregate values under \$100,000 the IC Executive Officer will serve as the Determining Authority. If aggregate values on individual reports exceed \$100,000 or, for reports of loss, damage or destruction of capital items, the IC Director must serve as the Determining Authority. This authority may not be delegated.

**C. PROCEDURE**

**1. Appointment**

The IC Director will appoint members to the IC BOS or combined IC BOS. The Associate Director for Administration, shall appoint NIH BOS members. Terms of appointment for IC BOS members are at the discretion of the IC.

NIH BOS members will be replaced through rotation. Each year, IC Executive Officers (EOs) will submit a nominee for NIH BOS duty. Each year two members from within the NIH BOS will succeed the NIH BOS Chairperson and Vice Chairperson. The prior NIH BOS Chairperson and Vice Chairperson will be relieved of NIH BOS duty. Two individuals will be selected from the nominees of the EOs and added to the NIH BOS.

**2. Conducting the Boards of Survey Hearing**

To determine whether individuals should be held liable or relieved of liability, the facts contributing to the loss must be developed through thorough review of facts and circumstances surrounding the occurrence of loss, damage or destruction. The BOS must ensure the facts are fully disclosed, the interests of the Government are fully served, and the rights of the involved individuals are fully protected.

The BOS will hold meetings as required, and all actions will be documented in written minutes. These minutes will constitute part of the hearing record; also included will be the statements and exhibits included in the ROS.

The BOS is administrative in nature. If, during the conduct of the hearing, theft of property or fraud is indicated, the report should be referred to the Inspector General for criminal investigation.

- a. The BOS will use the statement in block 4 of HHS Form 342 and any additional attached information to begin the hearing.

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- b. The BOS will determine who to interview and obtain their statements. It is important to obtain statements from all individuals whose testimony may assist in determining the cause of the loss or those individuals who had responsibility for the loss. The BOS may consider interviewing the PMR, the PCO, the accountable user, the supervisors, and any witnesses. Before contacting the individuals, the BOS will determine what information is needed from the individual. During the interviews, other questions may arise that will require additional interviews with persons already interviewed, or with other persons not originally considered. If this is the case, the BOS will follow-up on these interviews as needed.
- c. When interviewing individuals, the BOS will summarize the interviews on plain bond paper. Statements provided by individuals interviewed must be typed or legibly printed in ink. The word STATEMENT should be typed or printed legibly across the top. The individual's statement follows, with his or her signature and the date entered at the end of the statement.
  - (1) When obtaining statements from persons who have some form of responsibility for the property listed on the ROS, the BOS will consider credibility of the witnesses. When individuals have had responsibility for the property being accounted for on a ROS, there is an excellent possibility they are not going to incriminate themselves. You must confirm through the use of other independent statements and evidence whether such statements are factual or not.
  - (2) There also may be a conflict in the statements provided by different persons. As the BOS you must resolve the conflicts and determine the true facts as far as possible in making your findings. Compare the conflicting versions with other known facts and circumstances, and use common sense.
- d. During interviews with individuals, other evidence may become available that will assist in developing your findings and recommendations. Other evidence deemed necessary in the conduct of the hearing may include, standard operating procedures, police reports, accident reports, other investigations, estimated cost of damages, photographs, etc.. Mark this evidence, as an exhibit, and attach it to the ROS.
- e. The evidence discussed above is attached to the HHS Form 342 as exhibits. Exhibits are first identified alphabetically at the bottom of each exhibit along with the date of the ROS, the dollar amount of the LDD, and the organization or property account to which the property belonged. As an example: Exhibit S, 24 Jan 99, \$736.43, DPPS, OLAO.

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- f. If, during the conduct of the BOS hearing, the property is recovered, the BOS will close out the ROS by documenting the fact and notify PAB to ensure accountability is reestablished.

**3. Findings**

Findings are the conclusions reached during the review of circumstances surrounding the loss. They are based on the facts. Findings must be supported by evidence contained in either block 4 of HHS Form 342, or by exhibits attached to the ROS. Findings are not based on personal speculation, suspicion, or opinions not supported by evidence. Findings are the basis for forming a recommendation. It is very important that the findings are expressed as accurately and completely as possible.

Findings are entered in block 7 of HHS Form 342. The BOS will determine, on the basis of the evidence found during the investigation, how the loss occurred. The findings must be complete enough to withstand the scrutiny of later reviews by the approval authority, legal advisors, and the appeal authority. Include the total cost of the LDD value in block 7.

Reference the exhibits supporting your findings. The BOS will refer to findings supported by evidence, by referring to the exhibits. As an example:

- a. Ms. Smith was personally responsible for the missing property based on the property pass (Exhibit A) and PCO's report or observation (Exhibit B).
- b. John Doe was driving the vehicle above the posted speed limit based on the county police accident report (Exhibit C) and the judgment of the circuit court (Exhibit D).
- c. The supply room was left unattended and unsecured on the evening of 16 May 1999, based on the security police's report (Exhibit B).

**4. Recommendations:** After recording the BOS findings, develop BOS recommendations. The BOS recommendations must be logical and based on the findings.

- a. When findings reveal there was no negligence or willful misconduct on the part of anyone, make a recommendation to relieve all persons concerned of financial responsibility. As an example, the recommendation may read: "Recommend all persons be relieved of financial responsibility and accountability for the lost property."
- b. When the findings reveal there was negligence or willful misconduct on the part of one or more individuals, determine if the negligence was the proximate cause for the loss. In other words, without the negligent act or acts, would the loss have occurred?

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- (1) When the negligent act or willful misconduct is not the proximate cause of the loss, involved individuals should be relieved of financial responsibility for the loss. An example of a recommendation that may be used is: "Recommend all persons be relieved of financial responsibility and accountability for the lost property." This does not preclude the Government from taking other administrative or disciplinary actions against the individuals(s) committing the negligent act(s) or willful misconduct.
  - (2) When an individual's negligent act or act of willful misconduct is the proximate cause for the loss, the individual should be recommended for assessment of financial liability. An example of the recommendation may read: Recommend (individual's name, grade and SSN) and (identify others being recommended as shown in the previous parenthesis) be held financially liable in the amount of (\$ amount).
  - (3) When more than one person's negligent act or act of willful misconduct is the proximate cause for the loss, those persons should be recommended for assessment of collective financial liability. The term "collective financial liability" is used when more than one individual is found financially liable for a loss. An example of the recommendation may read: Recommend (individual's name, grade and SSN) and (identify others being recommended as shown in the previous parenthesis) be held collectively financially liable in the amount of (\$ amount) and (\$ amount), respectively.
- c. The BOS recommendations should also include recommended disposition of the accounting requirements for any damaged property. A recommendation to relieve all concerned of financial accountability for damaged item(s), or a recommendation that financial accountability continue and damaged property be repaired and returned to service are appropriate, depending on the circumstances.

The BOS findings and recommendations are administrative and advisory. The recommendations are not binding upon the Determining Authority (DA). All supporting documentation should accompany the ROS when submitted to the DA.

**5. Determining Authority Actions**

The Determining Authority may accept the recommendation of the BOS. If so, the Determining Authority will notify supervisory personnel, human resources, financial management and property management personnel of any necessary actions. Notice of the Determining Authority's decision, copies of all completed and signed documentation, and notification of the completion of accepted recommended actions should be returned to the PMR for non-capital loss, damage or destruction or PAB for loss, damage or destruction of capital property. Documentation will be added to the ROS file and to the office responsible for maintenance of the file.

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**6. Annual Review of BOS Activities**

Annually, PMRs will conduct a review of all complete IC BOS actions. This review will produce a summary report of Loss, Damage and Destruction of Government Property. The total number of items lost and the total value of losses must be reported to the Property Management Officer (PMO) no later than November 15 each year, for the prior fiscal year. The Chief, PAB, will conduct a similar review of NIH BOS actions and will submit a summary report to the PMO within the same period.

The review will also be used to determine if there are developing trends in LDD. If it is apparent that individual losses indicate a developing trend, or that a process or procedure is insufficient, PMRs shall make recommendations for changes to procedure and/or policy to the IC Executive Officer or the IC Director. These recommendations shall be designed to protect the Government's property asset investment and to avoid future costs associated with replacement of LDD property. A copy of each IC's and the NIH review and any findings and recommendations shall be sent to the Associate Director for Administration, OM/OD, in the form of a report, no later than December 31 each year. If trends are evident across ICs or in NIH survey reports, the PMO may direct changes to NIH policies and procedures to alleviate the possibility of additional property LDD.

**D. RECORDS RETENTION AND DISPOSAL**

All records (e-mail and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual 1743, "Keeping and Destroying Records," Part 1 Administration, Section 2600 Procurement, Property and Supply Management, Item 2600-C-2-c.

NIH e-mail messages. NIH e-mail messages (messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. These records must be maintained in accordance with current NIH Records Management guidelines. Contact your IC Records Officer for additional information.

All e-mail messages are considered Government property, and, if requested for a legitimate Government purpose, must be provided to the requester. Employees' supervisors, NIH staff conducting official reviews or hearings, and the Office of Inspector General may request access to or copies of the e-mail messages. E-mail messages must also be provided to Congressional oversight committees if requested and are subject to Freedom of Information Act requests. Since most e-mail systems have back-up files that are retained for significant periods of time, e-mail messages and attachments are likely to be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.